

Protection for Whom? . . . By Alfred Friendly

Ervin's 'Bill of Rights'

In civil rights, as elsewhere, one man's meat is another man's poison. New legislation proposed Tuesday by Sen. Sam J. Ervin Jr. (D-N.C.) as a "Bill of Rights" for Federal workers is a case in point.

Ervin sees as a poisonous violation of Constitutional rights a civil service procedure to put meat on part of the skeleton of Negroes' civil rights.

The Senator has a splendid record as an expert on and champion of Constitutional rights. He has an equally consistent record of voting "No" on all four major Civil Rights laws, beginning in 1957. His new bill is consistent with both attitudes.

It would forbid Federal officials from pressuring their subordinates in ten areas. In seven—enforcing attendance at outside meetings, requiring political and other contributions, denying counsel at disciplinary proceedings, etc.—Ervin is clearly against sin.

Three other prohibitions are more arguable and more important.

The most significant has to do with the Government's new questionnaire in which each employee is asked to state his race. Ervin characterizes it as an invasion of privacy and a violation of due process. The Civil Service Commission, which promulgated it, sees it as a way to fulfill the purpose of Title VII of the Civil Rights Act of 1954, to insure equal employment opportunities for minorities, principally Negroes.

It replaces an unsatisfac-



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tory headcount system by supervisors. Present Federal employees and those newly hired are now asked to designate themselves—voluntarily and under secrecy procedures—as Negroes, American Indians, Spanish-Americans, Orientals or "none of these" (i.e. Caucasian).

IN THEORY, the information is known only to a computer, recorded against the employee's Social Security number, not his name. Information on numbers and ratios of Negro and other minority employees—in the absolute and by job level—is thus instantly available and current. The aim, of course, is to detect agencies where employment discrimination exists, and to chart changes.

Ervin claims the secrecy and voluntary aspects of the procedure are being violated, but can cite only a handful of complaints from the entire Federal service.

Is the system bad? Ervin says yes. Doubtless Negro Civil Rights groups and the Equal Employment Opportunity Commission would disagree.

The bill's second major prohibition is of psychological and lie-detector tests containing questions on sexual conduct and attitudes and religious views.

Used wholesale by less than expert psychologists as personality indicators, the tests are generally discredited and not widely used any more even outside of Government. The individual questions, though, are not as bad as they look. The tester is not concerned with the subject's morals or religion but in his worries and emotional reactions.

THEIR USE has long since been almost entirely forbidden in the Government serv-

ice except as part of a medical examination conducted by qualified doctors. The Federal Aviation Agency has insisted on them for air traffic controllers, where emotional stability is the *sine qua non* for safety, and the CIA must certainly use them.

Would their flat prohibition invade and inhibit necessary medical procedure in special situations?

The third principal target of the bill is enforced financial disclosures. Ervin concedes the necessity for top officials and those with contract and tax liability determination duties to reveal their financial interests. His objection is that instead of the requirement falling on a few hundred employees, it hits tens of thousands.

Financial disclosure is to prevent conflict of interest situations and, it can be argued, it is a device for the employee's own protection. Psychiatric tests are to prevent emotionally unsuited persons from holding sensitive jobs.

If Congress denies the Executive Branch the tools to achieve those purposes, will it be resigned to lapses that occur?

If a Federal Communications Commission employee feathers his own nest by his rulings or if a homosexual Voice of America officer makes a spectacle of himself and his country abroad, will Ervin's Congressional colleagues chalk it up as one of the inevitable risks that come from serving the greater cause of Constitutional rights?

Or will they tear the hide off the FCC and the VOA?

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